

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ROBERT CHARLES CLINE,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-07-442-R
)	
STATE OF OKLAHOMA,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner, a prisoner appearing pro se, brings this action pursuant to 28 U.S.C. § 2254, seeking a petition for writ of habeas corpus. United States District David L. Russell has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). For the reasons set forth herein, the undersigned recommends that the petition be dismissed without prejudice.

By Order of this Court dated April 19, 2007, the undersigned advised Petitioner that he had not filed his petition for writ of habeas corpus on the proper form in accordance with Local Civil Rule 9.2 and ordered Petitioner to file an amended petition on the proper form on or before May 4, 2007. A review of the Court file reveals that as of this date, Petitioner has not complied with this order, requested an extension of time within which to do so, nor demonstrated good cause for his failure to respond to the Court's order.¹ Plaintiff's failure to comply with this Court's order combined with the Court's need to manage and control its caseload warrants dismissal of the complaint

¹ The Court file reveals that the Order or referral entered April 19, 2007, was returned marked "RTS ADDRESSEE NO LONGER @ THIS ADDRESS." Petitioner has not provided this Court with his change of address. See Local Civil Rule 5.5("notice of any change of address . . . of [a] *pro se* litigant must be given by filing the form provided by the Clerk and serving it on opposing counsel....").

without prejudice to refiling. *See Green v. Dorrell*, 969 F.2d 915, 917 (10th Cir. 1992) (noting court has repeatedly upheld dismissals in situations where the parties have neglected their cases or refused to obey court orders). Therefore, the undersigned recommends that this action be dismissed without prejudice to refiling.

RECOMMENDATION

Accordingly, because Petitioner has failed to comply with this Court's order, it is recommended that this action be dismissed without prejudice to refiling. Petitioner is advised that any objection to this Report and Recommendation must be filed with the Clerk of this Court by the 31st day of May, 2007, in accordance with 28 U.S.C. §636 and Local Rule 72.1. Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 11th day of May, 2007.



BANA ROBERTS
UNITED STATES MAGISTRATE JUDGE